

AO 311 (Rev. 5/85) Criminal Complaint

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

JOHN DOE,
a/k/a/ Fernando Carrasco-Rivera
a/k/a Victor Garcia
a/k/a/ Victor Pedro Garcia

(Name and Address of Defendant)

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

CRIMINAL COMPLAINT

CASE NUMBER:

07 70362

PVT

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about between 3/19/07 & 5/1/07 in Monterey county, in the

Northern District District of California defendant(s) did, (Track Statutory Language of Offense)

Falsely and willfully representing himself to be a citizen of the United States.

in violation of Title 18 United States Code, Section(s) 911

I further state that I am a(n) Customs and Border Officer and that this complaint is based on the following

Official Title

facts:

See Attached Affidavit

Maximum Penalties:

3 years imprisonment
\$250,000 fine
3 years supervised release
\$100 special assessment

Continued on the attached sheet and made a part hereof:

☒ Yes☐ No

Approved
As To
Form:

AUSA: CARLOS SINGH

Name/Signature of Complainant:

Sworn to before me and subscribed in my presence,

Date

6/21/07

at

SAN JOSE, CALIFORNIA

City and State

U.S. MAGISTRATE JUDGE PATRICIA V. TRUMBULL

Name & Title of Judicial Officer

Signature of Judicial Officer

UNITED STATES DISTRICT COURT)
) ss. AFFIDAVIT
NORTHERN DISTRICT OF CALIFORNIA)

AFFIDAVIT IN SUPPORT OF A CRIMINAL
COMPLAINT CHARGING
FERNANDO CARRASCO-RIVERA
WITH VIOLATING 18 U.S.C. 911

I, Jim D. Mollison, Jr., being duly sworn, do depose and state:

Affiant Background

1. I am an Enforcement Officer with the United States Department of Homeland Security, Customs and Border Protection (CBPEO). I have been employed with CBP since March 01, 2003. Previously, I was employed as an Immigration Inspector with the United States Department of Justice, Immigration and Naturalization Service since May 1998. My duties include the investigation and prosecution of violations of the Immigration and Nationality Act and related criminal immigration statutes. I have been certified as a forensic document-training instructor by the Immigration and Customs Enforcement, Forensic Document Laboratory, in McLean, VA.

Purpose

2. Your affiant seeks a criminal complaint and arrest warrant against John Doe, aka, Fernando Carrasco-Rivera, aka Victor Garcia, aka, Victor Pedro Garcia (hereinafter “the defendant”) for violating Title 18 U.S.C. § 911, falsely and willfully representing himself to be a citizen of the United States. This affidavit is based on my investigation, investigation of other agents and my review of official documents and

records. The affidavit does not contain every fact known to me, but sufficient information to establish probable cause that Carrasco-Rivera has violated 18 U.S.C. § 911.

Case Facts and Evidence

3. On March 29, 2007, a person claiming to be Fernando Carrasco-Rivera was encountered by Immigration Enforcement Agent (IEA) Cesar Umali at the California Department of Corrections, Correctional Training Facility (CTF) located at Soledad, California. Agent Umali advised the defendant of his Miranda rights. The defendant acknowledged he understood those rights and waived them. The defendant told Agent Umali that:

- a. His name was Fernando Carrasco Rivera.
- b. He was a citizen of the United States.
- c. He was born on July 09, 1960.
- d. His place of birth was Yabucoa, Puerto Rico.
- e. He last entered the United States in 1967 at New York.

4. But a query of the Automated Biometric Identification System (IDENT) system showed that the defendant was not Fernando Carrasco-Rivera, but an individual who attempted to enter the United States under another name. (The IDENT data-base system traces individuals by fingerprint and photograph.) The IDENT system revealed that the defendant was previously apprehended by the United States Border Patrol agents at the land border port of Imperial Beach in San Diego, CA on November 23, 1995, with Enforcement Integrated Database (EID) 17830 and was charged with Entry Without Inspection (EWI). The IDENT system showed that the defendant was again

apprehended by the Border Patrol agents at the land border port of San Clemente, San Diego, CA (SCM) in June 25, 1996, with EID 1057723 and was charged with EWI. On both apprehensions, his country of birth and country of citizenship were listed as Mexico.

5. Other records showed that the defendant had alien file numbered 78239082. A review of that A-file showed that on December 27, 1999, at the San Ysidro, San Diego, CA, Port of Entry, the defendant attempted to enter the United States by claiming United States citizenship by birth in Puerto Rico and using the name of Victor Garcia with date of birth of April 04, 1967. During the time of apprehension, he presented a California Identification card numbered A7935876 with the name Victor A. Garcia and date of birth of April 04, 1967, with his picture on it. He also presented a Social Security card numbered 536-20-1905 with the name Victor Garcia. Also found in his possession were a California Identification card numbered B3307430 and a Social Security card in the name of Fernando Carrasco Rivera (the name he later provided Agent Umali during the March 29, 2007 interview). Other records indicate that the defendant has used the name Victor Pedro Garcia.

6. On April 19, 2007, IEA Andrew Tayaba issued an Immigration Detainer – Notice of Action, for the defendant, to the California Department of Corrections, CTF, located at Soledad, California.

7. On May 1, 2007, the defendant sent a typewritten letter addressed to IEA Andrew Tayaba. In the letter, the defendant claimed that: his true name was Fernando Carrasco Rivera; he was born July 09, 1960; his place of birth was Yabucoa, Puerto Rico, U.S.A.; his father's name was Eduardo Carrasco; and his mother's

name was Delia Rivera. To support his claim of United States citizenship he attached, with his letter, a copy of a Social Security card numbered 071-54-1312 in the name of Fernando Rivera Carrasco; a California Driver's license numbered B3307430 in the name of Fernando Carrasco Rivera; a California Department of Corrections inmate identification card numbered F-35877 with a picture on it.

8. IEA Tayaba forwarded the defendant's file with criminal record history to the San Francisco Deferred Inspections Office to determine his claim to United States citizenship. Supervisory Customs and Border Protection Officer John McGurk and Customs and Border Protection Officer Ana Nieves reviewed the defendant's file and initiated an investigation to determine the defendant's actual citizenship.

9. SCBPO McGurk contacted Juan Machado, the investigator for Demographic Registry - Verification and Localization Division of San Juan, Puerto Rico, and asked whether there was a birth certificate under the name of Fernando Carrasco Rivera with date of birth of July 9, 1960 and birthplace of Yabucoa, Puerto Rico. Investigator Machado replied through a faxed letter (and provided copies of documents) confirming that there was a birth certificate for Fernando Carrasco Rivera and that other vital information was true and correct according to the original vital records file at his office.

10. A query on Consular Consolidated Database (CCD) under the name of Fernando Carrasco revealed that an application for a United States passport was filed in March 27, 1995. The application showed the applicant's name as Fernando Carrasco with date of birth July 19, 1960, a Social Security number of 071-54-1312, and an address of 4150 S.W. 33 Drive Hollywood, Florida 33023. The application listed his

father's name as Eduardo Carrasco, his mother's name as Delia Carrasco Rivera, and stated that both parent's were born in Puerto Rico. However, the picture on the United States passport application form appeared to be a different person from the picture on the California Driver's license and Inmate identification card attached by the defendant with the letter sent to IEA Tayaba.

11. I contacted CBPEO Sean J. Hickey from Miami, Florida and asked him to interview Fernando Carrasco – the person who had applied for the United States Passport. On May 15, 2007, Customs and Border Protection Enforcement Officers Hickey and Intriago located Fernando Carrasco at his residence, located at 200 Southwest Avenue #68, Pembroke Pines, FL 33023. Carrasco told the agents that someone in California had been misusing his identity. He learned of this when he applied two years ago for his driver's license numbered C620-240-60-259-0 with the above address and date of birth July 19, 1960. He told agents that a DMV employee in Pembroke Pines had asked him for additional supporting documentation to prove his identity. Carrasco provided copies of his birth certificate, numbered 152-60-00464-000464-001010, issued in Yabucoa, Puerto Rico with date of birth of July 19, 1960.

12. On May 18, 2007, CBPEO Hickey obtained copies of Fernando Carrasco's expired United States passport, Florida driver's license and Puerto Rican Birth Certificate numbered 152-60-00464-000464-001010. These copies were notarized by Magali C. Martinez, Notary Public, State of Florida.

13. On May 21, 2007, I arranged for a meeting with the defendant at the California Department of Corrections, Correctional Training Facility (CTF) located at Soledad, California. I wanted to speak with the defendant further about his claim of

citizenship. I read the defendant his rights. The defendant acknowledged his Miranda Rights and invoked his right to an attorney. The interview was terminated at that point. Having personally met the defendant, I noticed that he appeared to be a different person than that of the person depicted in the passport photograph that CBP Hickey obtained in connection with his interview of Fernando Carrasco in Florida.

14. On May 22, 2007, I contacted Fernando Carrasco (located in Florida) by telephone. During that interview Fernando Carrasco said that: his father's name was ⁷¹ and that his father was deceased; and his mother's name is Delia Rivera and she currently lives in New York. Carrasco said that he has never been to California and has never been issued a California Driver's License or California Identification card.

PV7
on
Eduardo
Carrasco

15. I asked Fernando Carrasco about a discrepancy in the dates of birth on certificates. (There exists a discrepancy between the date of birth, July 9, 1960, confirmed by Investigator Machado filed on his records under the name of Fernando Carrasco Rivera (see paragraphs 9 and 11) and the date of birth, July 19, 1960, given by Fernando Carrasco (from Florida) when he applied for his United States passport in March 27, 1995.) Fernando Carrasco told me that he lost his original birth certificate "a long time ago" in New York and filed for a new birth certificate through his mother, Delia Rivera, whom at the time lived in Puerto Rico. He stated that his original birth certificate showed a date of birth of July 9, 1960, but was not filed until July 19, 1960. He stated that the birth certificate now in his possession was issued on October 31, 1991, and shows a date of birth of July 19, 1960.

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Conclusion

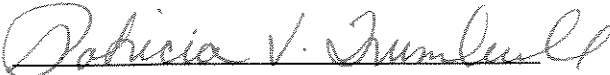
I respectfully submit that the above presented facts establish probable cause to believe that John Doe, aka, Fernando Carrasco-Rivera, aka Victor Garcia, aka, Victor Pedro Garcia did knowingly and willfully represent himself to be a citizen of the United States, in violation of Title 18, United States Code, Section 911, while in the Northern District of California.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.



Jim D. Mollison, Jr.
Enforcement Officer,
U.S. Customs and Border Protection
U.S. Department of Homeland Security

SUBSCRIBED AND SWORN BEFORE ME
ON THIS 21 DAY OF JUNE 2007



PATRICIA V. TRUMBULL
United States Magistrate Judge
Northern District of California